

NOTICE OF REMOVAL

1. This action was commenced by the filing of a Petition being Case No. CJ-2016-3310 in the District Court in and for Tulsa County, Oklahoma, a court within this judicial district.

2. Copies of all process, pleadings and orders on file in said state court are attached hereto. (Docket Report [Ex. 1]; Pl.'s Pet., Sep. 13, 2016 [Ex. 2].

3. This Court has diversity jurisdiction over this proceeding pursuant to 28 U.S.C. § 1332 because the parties properly joined and served are completely diverse, and because the amount in controversy exceeds \$75,000.00.

4. This Notice of Removal has been timely filed within thirty (30) days after receipt by the Defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based. This notice of removal is being filed less than one year since the commencement of the action.

5. Contemporaneously with the filing of this Notice of Removal, a copy of this Notice is being filed with the District Court in and for Tulsa County, Oklahoma, and is being served upon counsel of record.

DIVERSITY JURISDICTION

6. This case is properly removable pursuant to 28 U.S.C. § 1441, which provides in pertinent part as follows:

(a) Generally. — Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

7. This action is properly removable under 28 U.S.C. § 1441(a) and (b) because this United States District Court has original jurisdiction of this case under 28 U.S.C. § 1332(a), as amended, which provides in pertinent part as follows:

a. The district court shall have original jurisdiction of all civil actions

where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and cost, and is between - -

- i. Citizens of different states

A. DIVERSITY OF CITIZENSHIP

8. There is a complete diversity of citizenship between the Plaintiff and the Defendants.

9. Plaintiff is a citizen and resident of the State of Oklahoma, and she has resided in Tulsa County her entire life. (Pl.'s Pet. ¶¶ 1-3, at 1 [Ex. 2].) Therefore, for purposes of diversity jurisdiction, Plaintiff is deemed to be a citizen of Oklahoma.

10. NHIC is organized and existing pursuant to the laws of the State of Texas, with its principal place of business located in the State of Texas. (See Tex. Dep't of Ins., https://apps.tdi.state.tx.us/pcci/pcci_show_profile.jsp?tdiNum=84250 [Ex.3].) Therefore, for purposes of diversity jurisdiction, NHIC is deemed to be a citizen of Texas.

11. Defendant Meritain Health, Inc. is organized and existing pursuant to the laws of the State of New York, with its principal place of business located in the State of New York. (See NYS Dep't of State Div. of Corps. Entity Information, https://appext20.dos.ny.gov/corp_public/CORPSEARCH.ENTITY_INFORMATION?p_token=CE5485B75541DFEF8492E2E98F66C9AC70A6FB56E01F186FED037600C6A8B94728D5F4B1F253B98CC00A24CF2340B89A&p_nameid=B558FEB6429EA944&p_corpid=60D20842F50A9391&p_captcha=19430&p_captcha_check=42E0DB7A792EB45A&p_entity_name=meritain%20health&p_name_type=A&p_search_type=BEGINS&p_srch_results_page=0 [Ex.4].) Therefore, for purposes of diversity jurisdiction, Defendant Meritain Health, Inc. is deemed to be a citizen of New York.

B. AMOUNT IN CONTROVERSY

12. It is apparent from the face of Plaintiff's Petition that Plaintiff seeks actual damages, punitive damages, costs and attorney fees in an amount exceeding the jurisdictional limit. The Petition states that as a result of Defendants' alleged breach of contract she was deprived of policy benefits "in an amount greater than the jurisdictional sum of \$75,000.00." (Pl.'s Pet. ¶ 19, at 3 [Ex. 2].) The Petition further states that Plaintiff is seeking punitive damages "in an amount greater than the jurisdictional sum of \$75,000.00." (*Id.* at ¶ 21 [Ex. 2].)

CONCLUSION

WHEREFORE, for the reasons stated above, there is complete diversity of the parties named in this lawsuit. Also, as demonstrated above, the amount required for diversity jurisdiction is clearly satisfied based on the face of Plaintiff's Petition. Thus, diversity jurisdiction is present in this case. Consequently, NHIC requests that this Court proceeds with the handling of this case as if it had been originally filed herein, and that further proceedings in the District Court in and for Tulsa County, Oklahoma, be hereby stayed.

This, the 19th day of October, 2016.

Respectfully submitted,

s/ Tyler H. Trout

J. Derrick Teague, OBA #15131

Tyler H. Trout, OBA #32132

JENNINGS | TEAGUE, P.C.

1000 City Place Tower

204 North Robinson

Oklahoma City, OK 73102

Telephone: 405.609.6000

Facsimile: 405.609.6501

Email: dteague@jenningsteague.com

ttrout@jenningsteague.com

**ATTORNEYS FOR DEFENDANT
NATIONAL HEALTH INSURANCE
COMPANY**

CERTIFICATE OF SERVICE

This is to certify that on this 19th day of October, 2016, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing, and transmittal of a Notice of Electronic Filing was sent to the following ECF registrant:

James W. Dunham, Jr.
2112 Bank of America Center
15 West 6th Street
Tulsa, OK 74119
elawyer@swbell.net
ATTORNEY FOR PLAINTIFF

s/ Tyler H. Trout

Tyler H. Trout